Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

OFFICE OF THE SECRETURY

In re Applications of) MM Docket No. <u>92-316</u>
RIVERTOWN COMMUNICATIONS COMPANY, INC.) File No. BPH-9110033ME
SAMPLE BROADCASTING COMPANY, L.P.) File No. BPH-91100100NE
For Construction Permits For a New FM Station on Channel 282C3 at Eldon, Iowa	,)))

TO: Administrative Law Judge John M. Frysiak

REPLY TO MORPOSSITION TO MODITION TO ENLARGE ISSUES W

Rivertown Communications Company, Inc. by its attromney, hereby replies to the Opposition to Motion to Emllarge Issues filled herein by Sample Broadbasting Company, L.P. (WSample) on March 8, 1993, stating as follows:

Rivertowni's Notion seeks issues to determine whether Sample's application for Eldon, Iowa, has been sponsored by, and for the beneffit of, O-Town Communications, Inc., likeensee of station KRSI-FM, Edilyville, Iowa; employer of Carmella Sample, Sample's general partner; and 80% owned by Sample's limited partner, Bruce Linder, his brother John Linder, and his father **Donald Linder.** The Motion is based upon a number of statements made to Rivertown's president, David W. Brown, and others, by Mark McVey an officer director and 20% owner of O-Town.

generally pleaded a failure to recall, coupled with

has not specifically denied making such statements, but has

that any statements which he made reflected only his personal views and opinions, unaided by input from Ms. Sample or Bruce Linder. 1

Linder. 1 McVey's Statement totally failed to address Rivertown's }*

speculative -- coupled with denials on the part of Ms. Sample and Bruce Linder that their motivations are less than pure.²

Sample recognizes (Opposition, p. 3) that an "admission against interest" is an exception to the hearsay rule, but argues that it is inapplicable here, since McVey is not a principal of Sample. It glosses over the fact that McVey is a principal of O-Town Communications, whose sponsorship of the Sample application lies at the heart of Rivertown's Motion. Clearly, McVey's statements to Collins and Brown constitute admissions against the interests of McVey and O-Town; they may not be ignored simply because Brown's and Collins' recounting of those statements are "hearsay."

Accordingly, it is respectfully urged that Rivertown's Motion to Enlarge Issues be granted, and the issues enlarged as requested.

Respectfully submitted,

RIVERTOWN COMMUNICATIONS COMPANY, INC.

Bv:

Donald E. Ward

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(202) 626-6290

Its Attorney

March 18, 1993

Ms. Sample concedes obtaining McVey's assistance in her site selection process, and in preparing her budgets; Motion, Exhibit I, pp. 2 and 3.

CERTIFICATE OF SERVICE

I, Donald E. Ward, do hereby certify that I have this 18th day of March, 1993, caused to be served by first class United States Mail, postage prepaid, a copy of the foregoing "REPLY TO 'OPPOSITION TO MOTION TO ENLARGE ISSUES'" to the following:

Hon. John M. Frysiak*
Administrative Law Judge
Federal Communications Commission
2000 L Street N.W.
Washington, D.C. 20554

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By Hand